

## REMARKS

Reconsideration of the application is requested in view of the above amendments and the following remarks. Claim 35 has been amended. Support for the amendments to claim 35 can be found at column 21, line 50 to column 22, line 25 and figure 8 of the issued patent. Claims 1-40 are pending in the application.

The reissue declaration is objected to for not identifying at least one error and for failing to contain a statement that all errors are being corrected without deceptive intent. Consequently, claims 1-40 were rejected as being based on a defective reissue declaration under 35 U.S.C. § 251. The revised declaration that addresses these issues has been executed by the Applicants and is attached herewith. Withdrawal of the rejection of claims 1-40 based on the declaration is respectfully requested.

Claims 35 and 36 were rejected under 35 U.S.C. § 102(e) as being anticipated by Abe et al., U.S. Patent No. 6,049,691. Applicants respectfully traverse this rejection.

Abe discloses the transmission of heat from a heat generating member to a belt at a nip portion. Since the length of the nip portion in the movement direction is small, when the movement speed (process speed) is high, sufficient amounts of heat cannot be transferred making it impossible to increase the speed without affecting performance of the device.

Claim 35 requires that "the nip portion is formed by a movable film separate from the heat-generating member and a pressure member for pressing against said film, and the heat-generating member contacts the film at a different position from that of the nip portion." Since the nip portion is separate from the heat-generating member and the pressure member, it is possible to optimize the material, shape, heat capacity and other characteristics of the heat-generating member so as to obtain a sufficient heat value for a given process speed.

Further, it is known that a large pressure is required for forming a nip portion and fixing an image at the nip portion. Abe discloses a nip pressure that is generated by the heat-generating member and therefore a supporting member having strength, such as a film guide (16a) is required for supporting the heat-generating member. As a result, much of the heat from the heat-generating member is lost to the supporting member, which reduces the ability of the heat

generating member to increase its temperature rapidly. Alternatively, if it is attempted to allow the heat-generating member of Abe to have strength without a supporting member, the heat capacity of the heat-generating member is increased which also results a decreased ability of the heat-generating member to increase its temperature rapidly.

In contrast, claim 35 requires that the heat generating member contacts the film at a different position from that of the nip portion, which results in the heat-generating member contacting the film only for the purpose of transmitting heat and not for the purpose of applying pressure. As a result, the required strength of the heat-generating member is minimized and the heat-generating member can be selected freely for shape, material, holding configurations and the like so as to be optimized for a given thermal design. Thus, Abe fails to disclose every limitation and associated advantage of claim 35 and the claims that depend from it. Withdrawal of the rejection is respectfully requested.

Claims 35-38 and 40 were rejected under 35 U.S.C. § 102(e) as being anticipated by Hayasaki et al., U.S. Patent No. 5,819,150. Applicants respectfully traverse this rejection.

Hayasaki discloses a fixing apparatus 100 that includes a magnetic induction exothermic film 1 as a cylindrical heat generator. As shown in figures 2a and 2b, fixing film 1 defines an exterior surface of a first, top roller (flange members 10 are externally fitted to both ends of that roller), and is brought into contact within exterior surface of pressing roller 15. A fixed Nip portion of a predetermined width is formed at the contact area between fixing film 1 and pressing roller 15. Accordingly, Hayasaki fails to disclose a "nip portion is formed by a movable film separate from the heat-generating member and a pressure member for pressing against said film," as required by claim 35. Hayasaki also fails to disclose a "heat-generating member contacts the film at a different position from that of the nip portion" as required by claim 35. Therefore, Hayasaki fails to disclose every limitation of claim 35 and the claims that depend from it.

Furthermore, because the heat-generating fixing film 1 disclosed by Hayasaki is integrally stacked in the film, the fixing film 1 is required to be fit and formable into a cylindrical shape. Consequently, there are significant limitations to how the heat-generating fixing film can be changed in shape, material, heat capacity and the like in order to optimize the device relative to the variations possible according to the configuration of claim 35 discussed above.

Claim 39 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Hayasaki et al., in view of Okabayashi et al., U.S. Patent No. 5,822,669. Applicants respectfully traverse this rejection. As discussed above, Hayasaki fails to disclose every limitation of claim 35. Okabayashi fails to remedy the deficiencies of Hayasaki as it relates to claim 35. Furthermore, Applicants submit that Hayasaki and Okabayashi fail to suggest every limitation of claim 35. Therefore, Applicants submit that claim 39 is allowable for at least the reason it is dependent upon an allowable base claim. Applicants do not otherwise concede the correctness of this rejection.

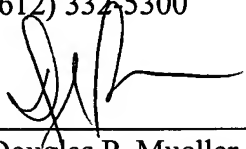
In view of the above, Applicants request reconsideration of the application in the form of a notice of allowance.

Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300

Date:

August 11, 2003

  
\_\_\_\_\_  
Douglas P. Mueller  
Reg. No. 30,300  
DPM:JNR:PSTpmc

